

MINUTES
PENNINGTON COUNTY PLANNING COMMISSION
December 19, 2016 @ 2:00 p.m.

County Commissioners' Meeting Room - Pennington County Administration Building

MEMBERS PRESENT: Sig Zvejnieks, Lori Litzen, William McCollam, Rich Marsh Travis Lasseter, Barbara Landers, and Lyndell Petersen.

STAFF PRESENT: PJ Conover, Brittney Molitor, Cassie Bolstad, Chutima Supboon, Angela Shute (SAO) and Jeri Ervin.

ROLL CALL

1. APPROVAL OF THE DECEMBER 5, 2016, MINUTES
Moved by McCollam and seconded by Lasseter to approve the minutes of the December 5, 2016, Planning Commission Meeting. Vote: unanimous 7 to 0.

2. APPROVAL OF THE AGENDA
Moved by Litzen and seconded by Landers to approve the Agenda of the December 19, 2016, Planning Commission Meeting. Vote: unanimous 7 to 0.

Moved by Marsh and seconded by Litzen to approve the Consent Calendar of the December 19, 2016, Planning Commission Meeting, with the removal of Item #6. Vote: unanimous 7 to 0.

CONSENT CALENDAR

The following items have been placed on the Consent Calendar for action to be taken on all items in accordance with staff's recommendation by a single vote. Any item may be removed from the Consent Calendar, by any Planning Commissioner, staff member, or audience member for separate consideration. The findings of this Planning Commission are recommendations to the Pennington County Board of Commissioners who will make the final decision.

3. CONDITIONAL USE PERMIT REVIEW / CU 02-08: Ron Plender. To review a frame straightening business as a home occupation in a General Agriculture District in accordance with Section 205-C-6 of the Pennington County Zoning Ordinance.

E1/2E1/2E1/2W1/2SW1/4SW1/4 less ROW; E1/2E1/2SW1/4SW1/4 less ROW; W1/2W1/2SE1/4SW1/4 less ROW, Section 17, T2N, R10E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 02-08 with the applicant's concurrence.

Vote: unanimous 7 to 0.

4. **CONDITIONAL USE PERMIT REVIEW / CU 15-35:** Black Hills Raptor Center; Davis Engineering - Agent. To review a bird education and health facility on a portion of the subject property located in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

A portion of the SW1/4 of the SW1/4 of Section 15, T2S, R7E, BHM, Pennington County, South Dakota.

To end Conditional Use Permit / CU 15-35 with the applicant's concurrence.

Vote: unanimous 7 to 0.

5. **CONDITIONAL USE PERMIT REVIEW / CU 15-36:** Donald and Margaret Norton. To review an existing shop building with living quarters to be used as a Guest House on the subject property in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 1, Knotty Pine Subdivision, Section 33, T1S, R7E, BHM, Pennington County, South Dakota.

To continue the review of Conditional Use Permit / CU 15-36 to the January 9, 2017, Planning Commission meeting in order for staff to meet with the applicants.

Vote: unanimous 7 to 0.

7. **CONDITIONAL USE PERMIT / CU 16-40:** John and Polly Preston. To allow a caretaker's residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

Tract AR, Preston Subdivision, Section 18, T2S, R8E, BHM, Pennington County, South Dakota.

To continue Conditional Use Permit / CU 16-40 to the January 9, 2017, Planning Commission meeting with the applicants' concurrence.

Vote: unanimous 7 to 0.

8. **CONDITIONAL USE PERMIT / CU 16-41:** Robert and Glenda Frank. To allow a Recreational Vehicle to be used as temporary living quarters while building a single-family residence on the subject property in a Low Density Residential District in accordance with Sections 207 and 510 of the Pennington County Zoning Ordinance.

Lot 5, Harrington Subdivision, Section 19, T2S, R7E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 16-41 with the following fourteen (14) conditions:

- 1. That there be no more than one (1) Recreational Vehicle (RV) allowed to be utilized as living quarters on the subject property during construction of the 32' x 40' garage with living quarters;**
- 2. That the address (24424 Milo Lane) be posted near the RV during the construction of the 32' x 40' garage with living quarters and on the living quarters once it is completed so that it is visible from Milo Lane in accordance with Pennington County's Ordinance #20;**
- 3. That the RV being used as a temporary residence be hooked into the On-Site Wastewater Treatment System (OSWTS) until 32' x 40' garage with living quarters is habitable;**
- 4. That upon completion of the 32' x 40' garage with living quarters on the subject property, the RV will either be removed from the subject property or may only be allowed to be stored on the property, must be disconnected from all utilities and may no longer be utilized as living quarters on the subject property;**
- 5. That the applicant notifies the Planning Department when the 32' x 40' garage with living quarters is habitable, so that this Conditional Use Permit may be ended;**
- 6. That prior to the applicants applying a Building Permit for a single-family residence on the subject property in the future, the living quarters in the 32' x 40' garage be removed or the necessary permits obtained, and the applicants notify the Planning Department of such;**
- 7. That an approved Building Permit be obtained for any structure exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;**
- 8. That the minimum setback requirements of a Low Density Residential District and Section Line be maintained on the subject property, or a Setback Variance be obtained;**
- 9. That the subject property remains free of debris and junk vehicles;**
- 10. That the applicants contact the County Fire Administrator for fire mitigation, fire sprinklers, and the use of non-combustible materials to enhance any structures in protection from wildfire;**

11. That at least two (2) off-street parking spaces be provided on the subject property, in accordance with the Pennington County Zoning Ordinance Section 310;
12. That the applicant is aware of and adheres to the above-mentioned comments provided by the U.S. Forest Service at all times;
13. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Conditional Use Permit / CU 16-41, which is available at the Planning Department; and,
14. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Vote: unanimous 7 to 0.

9. **CONDITIONAL USE PERMIT / CU 16-42:** Chase Gravatt. To allow for a single-wide mobile to be used as a single-family residence on the subject property in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

NW1/4NW1/4SW1/4, Section 13, T2N, R9E, BHM, Pennington County, South Dakota.

To approve of Conditional Use Permit / CU 16-42 with the following nine (9) condition:

1. That an Approach Permit application be approved by the Pennington County Highway Department for access approval from the 225th Street Right-of-Way, prior to submittal of a Building Permit for the proposed single-wide mobile home;
2. That a Building Permit be obtained for the proposed single-wide mobile home prior to any work being done to install it on the subject property;
3. That the minimum setback requirements of a General Agriculture District be continually maintained on the property;
4. That the subject property remains free of debris and junk vehicles;
5. That the single-wide mobile home installed on the property have a peaked, non-reflective type roof and wood or simulated wood-type siding that is continually maintained;

6. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground, which requires a site plan to be reviewed and approved by the Planning Director;
7. That the address assigned to the property be clearly posted on the residence and at the driveway so that it is visible from both directions of travel on 225th Street, in accordance with Pennington County's Ordinance #20;
8. That the applicant signs a Statement of Understanding at the Planning Department within ten (10) business days of approval of Conditional Use Permit / CU 16-42; and,
9. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as directed by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

END OF CONSENT CALENDAR

6. CONDITIONAL USE PERMIT REVIEW / CU 15-03: Bituminous Paving; Bill Krakowski – Agent. To review a portable asphalt batch plant to be set up in the Pete Lien & Son's gravel pit in a General Agriculture District in accordance with Sections 205 and 510 of the Pennington County Zoning Ordinance.

GL1-4; PT of GL 5 East of Right-of-Way; and PT NE1/4NW1/4 East of Right-of-Way, Section 17, T1N, R14E, BHM, Pennington County, South Dakota

Staff removed this Item from the Consent Calendar, as staff noted that, on the Agenda, this Item is a Conditional Use Permit Review and not a review of a Construction Permit.

Staff recommended to end Conditional Use Permit / CU 15-03, with the applicant's concurrence.

Commissioner Marsh stated he would be abstaining from voting on this item.

Moved by Litzen and seconded by Marsh to end Conditional Use Permit / 15-03 with the applicant's concurrence.

All voting, the Motion carried 6 to 1. Commissioner Marsh abstained.

10. CONDITIONAL USE PERMIT / CU 16-38: Tom and Terri Haggerty. To allow a townhome on the subject property in a Suburban Residential District in accordance with Sections 208 and 510 of the Pennington County Zoning Ordinance.

Lot E3-E6; Lot F1-F6; Lot G1 Except That Portion of Said Lot Lying East of Co Rd; Lot G2-G5; Lot H5, Warren Lamb Subdivision, Section 18, T1N, R7E, BHM, Pennington County, South Dakota.

(Continued from the November 28, 2016, Planning Commission meeting.)

Bolstad reviewed the Staff Report indicating the applicants have applied for a Conditional Use Permit to allow for a townhome on the subject property.

Staff recommended denial of Conditional Use Permit / CU 15-38, as Dark Canyon Road already exceeds the maximum 20 units allowed on a Dead End Road. However, if the Planning Commission chooses to approve Conditional Use Permit / CU 15-38, staff recommends the following twelve (12) conditions be included:

1. That a minimum of four (4) off-street parking spaces be provided on-site, each measuring a minimum of nine (9) feet by eighteen (18) feet, surfaced with gravel, concrete or asphalt, and maintained in a dust-free manner;
2. That the property be kept free of debris and junk vehicles;
3. That the addresses be clearly posted on both of the residences and so they are visible from both directions of travel on Dark Canyon Road in accordance with Pennington County's Ordinance #20;
4. That smoke alarms and fire extinguishers be installed and properly maintained in working order in each unit;
5. That the applicant works with the Fire Administrator for fire mitigation and emergency access to the subject property prior to Building Permit submittal;
6. That the applicant obtains an approved On-Site Wastewater Construction Permit from the City of Rapid City prior to a Building Permit application being submitted to the Planning Department;
7. That the two (2) proposed units are located within one (1) attached structure;
8. That the applicant obtains an approved Building Permit prior to any construction of the proposed townhouse;
9. That the minimum setback requirements of Suburban Residential District be maintained on the subject property, or an approved Setback Variance be obtained;

10. That an approved Floodplain Development Permit be obtained prior to any disturbance within the Special Flood Hazard Area located on the subject property;
11. That this Conditional Use Permit is not valid until the applicant signs the Statement of Understanding within ten (10) business days, which is available at the Planning Office; and,
12. That this Conditional Use Permit be reviewed in one (1) year, on a complaint basis, or as deemed necessary by the Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.

Conover also stated that Staff is recommending to include an additional Condition of Approval to state: "That the applicants obtain approval of a Subdivision Regulations Variance to Section 700, to allow a lot to be built on, on a Dead End Road System."

Discussion followed.

Moved by Marsh and seconded by McCollam to continue Conditional Use Permit / CU 16-38 until such time the applicants have obtained approval of a Subdivision Regulations Variance to allow a lot to be built on, on Dark Canyon Road, which is a Dead End Road System.

All voting aye, the Motion carried 7 to 0.

11. VACATION OF EASEMENTS / VE 16-02: Mountaintop Construction; Bob Brandt – Agent. To vacate a portion of a 20 foot underground power line easement for Lots 14 and 16 and to also vacate the 8 foot drainage and utility easement between Lots 14 and 15 and to also vacate the 8 foot drainage and utility easement between Lots 15 and 16 in accordance with the Pennington County Zoning Ordinance.

Lots 14, 15, and 16 of The Forks at Remington Ranch, Section 22, T1S, R6E, BHM, Pennington County, South Dakota.

Molitor reviewed the Staff Report indicating the applicant has applied to vacate a portion of a 20 foot underground power line easement for Lots 14 and 16 and to also vacate the 8 foot drainage and utility easement between Lots 14 and 15 and to also vacate the 8 foot drainage and utility easement between Lots 15 and 16.

Staff recommended approval of Vacation of Easements / VE 16-02 with the following three (3) conditions:

1. That the applicant update each "Exhibit A" to include Plat Book 34, Page 16; or include it on the Resolution, as requested by the Register of Deeds;
2. That all necessary resolutions and exhibits be recorded by the applicant or agent at the Register of Deeds; and,

3. That the applicant sign a Statement of Understanding within ten (10) business days of approval of this Vacation of Easement.

Discussion followed.

Moved by Landers and seconded by Litzen to approve of Vacation of Easements / VE 16-02 with the following three (3) conditions:

1. That the applicant update each “Exhibit A” to include Plat Book 34, Page 16; or include it on the Resolution, as requested by the Register of Deeds;
2. That all necessary resolutions and exhibits be recorded by the applicant or agent at the Register of Deeds; and,
3. That the applicant sign a Statement of Understanding within ten (10) business days of approval of this Vacation of Easement.

All voting aye, the Motion carried 7 to 0.

12. LAYOUT PLAT / PL 16-29: Dakota Land and Cattle Company, LLC. To create Tract B1 and Tract B2 of The Ranch at Black Gap in accordance with Section 400.1 of the Pennington County Subdivision Regulations.

EXISTING LEGAL: Balance of Tract B (also in Section 9), The Ranch at Black Gap, Section 8, T1S, R8E, BHM, Pennington County, South Dakota.

PROPOSED LEGAL: Tract B1 and Tract B2, The Ranch at Black Gap, Sections 8 and 9, T1S, R8E, BHM, Pennington County, South Dakota.

Bolstad reviewed the Staff Report indicating the applicant has applied for a Layout Plat to create Tract B1 and Tract B2 of The Ranch at Black Gap.

Staff recommended approval of Layout Plat / PL 16-29 with the following ten (10) conditions:

1. That at the time of new Plat submittal, eight (8) foot minor drainage and utility easements continue to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
2. That at the time of new Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;

3. That at the time of new Plat submittal, the applicant submits percolation tests and soil profile information for proposed Tract B1 and proposed Tract B2 to be reviewed and approved by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That at the time of new Plat submittal, the applicant provide engineered road construction plans for road improvements, including width and surface requirements that meet road authority standards, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That at the time of Building Permit submittal for proposed Tract B1 or proposed Tract B2, addresses will be assigned and said lot addresses shall be posted so they are clearly visible at all times, in accordance with Pennington County's Ordinance #20;
6. That following platting of proposed Tract B1 and proposed Tract B2, any on-site wastewater treatment system(s) be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance;
7. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
8. That the applicant ensures that all natural drainage ways be continually maintained and are not blocked;
9. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 16-29, which is available at the Planning Office; and,
10. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

Discussion followed.

Moved by McCollam and seconded by Landers to approve of Layout Plat / PL 16-29 with the following ten (10) conditions:

- 1. That at the time of new Plat submittal, eight (8) foot minor drainage and utility easements continue to be dedicated on the interior sides of all lot lines, or an approved Subdivision Regulations Variance be obtained waiving this requirement;**
- 2. That at the time of new Plat submittal, the plat meets all the requirements of Section 400.3 of the Pennington County Subdivision Regulations, or an approved Subdivision Regulations Variance be obtained waiving any of these requirements that are not met;**

3. That at the time of new Plat submittal, the applicant submits percolation tests and soil profile information for proposed Tract B1 and proposed Tract B2 to be reviewed and approved by the County Environmental Planner, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
4. That at the time of new Plat submittal, the applicant provide engineered road construction plans for road improvements, including width and surface requirements that meet road authority standards, or an approved Subdivision Regulations Variance be obtained waiving this requirement;
5. That at the time of Building Permit submittal for proposed Tract B1 or proposed Tract B2, addresses will be assigned and said lot addresses shall be posted so they are clearly visible at all times, in accordance with Pennington County's Ordinance #20;
6. That following platting of proposed Tract B1 and proposed Tract B2, any on-site wastewater treatment system(s) be subject to the requirements of Section 204-J of the Pennington County Zoning Ordinance;
7. That the Certifications on the plat be in accordance with Section 400.3.1.n of the Pennington County Subdivision Regulations;
8. That the applicant ensures that all natural drainage ways be continually maintained and are not blocked;
9. That the applicant signs the Statement of Understanding within ten (10) business days of approval of Layout Plat / PL 16-29, which is available at the Planning Office; and,
10. That approval of this Layout Plat does not constitute approval of any further applications to be submitted for the above-described property.

All voting aye, the Motion carried 7 to 0.

13. REZONE / RZ 16-13 AND COMPREHENSIVE PLAN AMENDMENT / CA 16-10: Joseph Theberge. To rezone 20.00 acres from General Agriculture District to Limited Agriculture District and to amend the Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive and to Limited Agriculture District in accordance with Sections 205, 206, 213, and 508 of the Pennington County Zoning Ordinance.

W1/2NW1/4NW1/4, Section 13, T1N, R6E, BHM, Pennington County, South Dakota.

Conover reviewed the Staff Report indicating the applicant has applied to rezone 20.00 acres from General Agriculture District to Limited Agriculture District and to amend the

Pennington County Comprehensive Plan to change the Future Land Use from Planned Unit Development Sensitive and to Limited Agriculture District.

Staff recommended approval of Rezone / RZ 16-13 and Comprehensive Plan Amendment / CA 16-10.

Discussion followed.

Moved by Landers and seconded by Litzen to approve of Rezone / RZ 16-13 and Comprehensive Plan Amendment / CA 16-10.

All voting aye, the Motion carried 7 to 0.

14. COUNTY BOARD REPORT

The Board of Commissioners concurred with the Planning Commission's recommendations from their November 14th and November 28th Planning Commission meetings.

1. SECOND READING OF PLANNED UNIT DEVELOPMENT / PU 16-03: Dan and Nancy Evangelisto.

The Seconding Reading was approved at the December 6, 2016, Board of Commissioner's meeting.

2. SECOND READING OF ORDINANCE AMENDMENT / OA 16-01: Pennington County. To amend Section 103 - Definitions; Section 208 - Suburban Residential District; and Section 319 - Vacation Home Rental Ordinance of the Pennington County Zoning Ordinance.

The Seconding Reading was approved at the December 6, 2016, Board of Commissioner's meeting.

15. ITEMS FROM THE PUBLIC

No motions or actions were taken at this time.

16. ITEMS FROM THE STAFF

- A. Ex Parte Communication. Deputy State's Attorney, Angela Shute, appeared and spoke of ex parte communication.

17. ITEMS FROM THE MEMBERSHIP

Commissioner Litzen will be appearing by Skype for the January 2017 PC meetings and she further stated that she will not be at the February 13th PC meeting.

Commissioner Lasseter spoke of the Planning Commission packets.

Commissioner Marsh spoke of the proposed Wind and Solar Energy Ordinance.

18. ADJOURNMENT

Moved by Litzen and seconded by Lasseter to adjourn.

All voting aye, the Motion carried 7 to 0.

The meeting adjourned at 3:17 p.m.

Sig Zvejnieks, Chairperson